

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DONALD COLE BURCHETT,

Plaintiff,

vs.

CHERYL L. HUFFMAN,

Defendant.

NO. CV-08-014-JLQ

ORDER DISMISSING COMPLAINT

**1915(g)**

By Order filed February 14, 2008, the court advised Mr. Burchett of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. Plaintiff, a prisoner at the Spokane County Jail, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served. The court cautioned Plaintiff if he did not amend as directed, the complaint would be dismissed for failure to state a claim upon which relief could be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). Plaintiff did not comply and has filed nothing further in this action.

In his complaint Mr. Burchett failed to assert facts against the named Defendant from which the court could infer excessive force was used against Plaintiff or that he was treated in violation of the Eighth Amendment prohibition against cruel and unusual punishment. For the reasons set forth above and in the Order to Amend or Voluntarily Dismiss (Ct. Rec. 9), **IT IS ORDERED** the complaint (Ct. Rec. 8) is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

1 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings  
2 three or more civil actions or appeals which are dismissed as frivolous or for failure to  
3 state a claim will be precluded from bringing any other civil action or appeal *in forma*  
4 *pauperis* “unless the prisoner is under imminent danger of serious physical injury.” 28  
5 U.S.C. § 1915(g). **Plaintiff is advised to read the new statutory provisions under 28**  
6 **U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the three**  
7 **dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to file**  
8 **future claims.**

9 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
10 Order, forward a copy to Plaintiff at his last known address, enter judgment, and close the  
11 file. The District Court Executive is further directed to forward a copy of this Order to  
12 the Office of the Attorney General of Washington, Criminal Justice Division.

13 **DATED** this 18th day of April 2008.

14 s/ Justin L. Quackenbush  
15 JUSTIN L. QUACKENBUSH  
16 SENIOR UNITED STATES DISTRICT JUDGE  
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